IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 18 OF 2006

IN

COMPANY PETITION NO. 1 OF 2001

MR. DIAGO M. MOURA ....Applicant

Versus

THE OFFICIAL LIQUIDATOR, M/S. NATIONAL AUTO ACCESSORIES LTD. (IN LIQUIDATION) ....Respondent

Mr. J.A. Lobo,Advocate for the Applicant.

Coram:- N. A. BRITTO, J.

Date:- 1st September, 2006

P.C.:-

Heard the learned Counsel on behalf of both the parties.

The applicant herein is a workman of the Company under Liquidation. The respondent-Official Liquidator pursuant to Order of this Court dated 28-9-2004 invited claims from the creditors of the said Company by notices published in the Navhind Times and Tarun Bharat dated 19-10-2004. As per the said notice/s claims were to be filed before the Official Liquidator on or before 30-11-2004. The applicant who is one of the workers of the Company under Liquidation has stated that he did not know about the said notices published and came to know about the same, as stated in para 9 of the application, and therefore made an application dated 14-3-2005, after immediately approaching the Office of the Official Liquidator at Panaji. The Official Liquidator informed the applicant that his application could not be entertained as the same was not filed within time, as contemplated by the said notice.

The applicant is therefore before this Court under Rule 177 of the

Companies(Court) Rules, 1959. On behalf of the applicant reliance has been placed on a decision of Rajasthan High Court in the case of Jogendra Singh v. Official Liquidator[2006] 65 SCL 162(Raj.). On behalf of the respondent reliance has been placed on a judgment of the Division Bench in the case of Saroj Kumar v. Sugar Mills Ltd.(AIR 1964 Patna 352). I have perused both the decisions cited at the Bar. The Division Bench has stated that a creditor is not precluded from coming in at a later stage than that fixed by the Official Liquidator for claims to be made. The only penalty for failure to come within the time stated in the notice for proving the claim is that the claimant can be excluded from the benefit made before such debts are proved and that he can only claim a proportionate share in such assets as may remain undistributed at the time when the proof is claimed and without disturbing any distribution made before such proof.

In the light of what has been stated in para 9 of the application of the applicant which I have no hesitation to accept, the respondent/Official Liquidator is hereby directed to adjudicate upon the claim of the applicant. Needless to say any claims so adjudicated would be paid subsequently to the applicant without disturbing the adjudication of claims already made. If any additional documents are required to adjudicate the said claim of the applicant, the applicant is hereby required to file the said documents before the respondent/Official Liquidator within a period of 10 days from today. The claim be adjudicated within a period of four weeks thereafter.

N. A. BRITTO, J.

RD.